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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/749,798	12/28/2000	Thomas E. Donaldson	06975-146001/ Search2	6269
26171	7590	01/03/2006	EXAMINER	
FISH & RICHARDSON P.C. P.O. BOX 1022 MINNEAPOLIS, MN 55440-1022			NGUYEN, CINDY	
			ART UNIT	PAPER NUMBER
			2161	

DATE MAILED: 01/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/749,798	DONALDSON ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Cindy Nguyen	2171	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 27 September 2005.
- 2a) This action is FINAL.                  2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 9-15 and 19-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 9-15 and 19-26 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 28 December 2000 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_

## DETAILED ACTION

This is in response to amendment filed 09/27/05.

### ***Double Patenting***

Claims 9-15, 19-26 are provisionally rejected on the ground of nonstatutory double patenting over claims 44-83 of copending Application No. 09/749629. This is a provisional double patenting rejection since the conflicting claims have not yet been patented.

The subject matter claimed in the instant application is fully disclosed in the referenced copending application and would be covered by any patent granted on that copending application since the referenced copending application and the instant application are claiming common subject matter, as follows: detecting a number of users accessed the searchable and retrievable content web site then scanning and storing the searchable and retrievable content we site based upon the content has been accessed the threshold number of times by the members of the web host

Furthermore, there is no apparent reason why applicant would be prevented from presenting claims corresponding to those of the instant application in the other copending application. See *In re Schneller*, 397 F.2d 350, 158 USPQ 210 (CCPA 1968). See also MPEP § 804.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 9-12, 19, 22-24 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Navin-Chandra et al. (US 6275820) (Navin) in view of Yagasaki (US 6125353).

Regarding claims 9, 19 and 26, Navin discloses: a method, a computer program, stored on a computer readable medium and a system for storing searchable and retrievable content into more than one distinct electronic information store, the method comprising: receiving searchable and retrievable content to be stored within more than one distinct electronic information store (col. 5, lines 45-65, Navin);

detecting a number of accesses of the searchable and retrievable content (col. 2, lines 23-67, Navin); comparing the number of detected accesses to a threshold number (col. 2, lines 23-67, Navin);

if the threshold number is met, scanning the searchable and retrievable content in response to the searchable and retrievable content being accessed the threshold number of times (col. 2, lines 23-67, Navin);

However, Navin didn't disclose: classifying the received searchable and retrievable content among a first type of searchable and retrievable content and a second type of searchable and retrievable content; and storing the received searchable and retrievable content based on the classifying among the first type and the second type such that different types of received searchable and retrievable content are stored among a collection of more than one distinct electronic information stores. On the other

hand, Yagasaki discloses: classifying the received searchable and retrievable content among a first type of searchable and retrievable content and a second type of searchable and retrievable content (col. 2, lines 10-26, Yagasaki); and storing the received searchable and retrievable content based on the classifying among the first type and the second type such that different types of received searchable and retrievable content are stored among a collection of more than one distinct electronic information stores (col. 4, lines 30-37, Yagasaki). Thus, at the time invention was made, it would have been obvious to a person of ordinary skill in the art to include the steps of classifying and storing in the system of Navin as taught by Yagasaki. The motivation being to enable the system classifies the products into a plurality of categories to allow a customer to search for a desired product.

Regarding claims 10 and 22, all the limitations of this claim have been noted in the rejection of claims 9 and 19 above. In addition, Navin/Yagasaki discloses: wherein the classifying is based on searchable and retrievable content received from a listing service (col. 6, lines 5-17, Yagasaki).

Regarding claims 11 and 23, all the limitations of this claim have been noted in the rejection of claims 9 and 19 above. In addition, Navin/Yagasaki discloses: wherein the classifying is based on searchable and retrievable content itself (col. 6, lines 5-17, Yagasaki).

Regarding claims 12 and 24, all the limitations of this claim have been noted in the rejection of claims 9 and 19 above. In addition, Navin/Yagasaki disclose: wherein

the first electronic information store includes non-offensive searchable and retrievable content (col. 8, lines 29-51, Yagasaki).

Claims 13-15, 20, 21 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Navin-Chandra et al. (US 6275820) (Navin) in view of Yagasaki (US 6125353) and further in view of Russell-Falla et al. (US 6266664) (Russell).

Regarding claims 13 and 25, all the limitations of this claim have been noted in the rejection of claims 9 and 19 above. However, Navin/Yagasaki didn't disclose discloses: wherein the second electronic information store includes offensive searchable and retrievable content. On the other hand, Russell discloses: wherein the second electronic information store includes offensive searchable and retrievable content (col. 5, lines 9-20, Russell). Thus at the time invention was made, it would have been obvious to a person of ordinary skill in the art to include the offensive web sites in the combination system of Navin/Yagasaki as taught by Russell. The motivation being to screen for offensive materials from web sites.

Regarding claims 14 and 15, all the limitations of this claim have been noted in the rejection of claims 9 and 19, 26 and 12, 13 above. Therefore, it is rejected as above.

Regarding claim 20, all the limitations of this claim have been noted in the rejection of claim 19 above. In addition, Navin/Yagasaki/Russell discloses: wherein the computer readable medium comprises a propagated signal (col. 6, lines 16-34, Russell).

Regarding claim 21, all the limitations of this claim have been noted in the rejection of claim 20 above. In addition, Navin/Yagasaki/Russell discloses: wherein the propagated signal comprises a carrier wave (col. 6, lines 16-34, Russell).

### **1. Contact Information**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cindy Nguyen whose telephone number is 571-272-4025. The examiner can normally be reached on M-F: 8:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Safet Metjahic can be reached on 571-272-4023. The fax phone numbers for the organization where this application or proceeding is assigned are 703-746-7239 for regular communications and 703-746-7240 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

Cindy Nguyen

December 22, 2005

  
FRANTZ COBY  
PRIMARY EXAMINER